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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/750,253

12/31/2003

Paul T. Van Gompel

20,088

1718

23556 7590 04/26/2007
KIMBERLY-CLARK WORLDWIDE, INC.
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EXAMINER

CRAIG, PAULA L

ART UNIT

PAPER NUMBER

3761

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

04/26/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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Office Action Summary	Application No.	Applicant(s)	
	10/750,253	VAN GOMPEL ET AL.	
	Examiner	Art Unit	
	Paula L. Craig	3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 October 2006 and 29 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/6/06 2/28/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. The objections to the drawings are withdrawn in light of Applicant's amendment filed January 29, 2007. As to the rejections under 35 USC 102 and 103, Applicant's arguments filed October 18, 2006 have been fully considered but they are not persuasive. Applicant argues that the specification teaches that the lateral extensions may be C-folded or Z-folded prior to attachment. However, the claims do not require that the lateral extensions be C-folded or Z-folded prior to attachment. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

2. For Claims 13 and 32, Applicant argues that it would not be obvious to modify Surprise to include the fasteners of the back waist region being located laterally inward of each longitudinal side edge of the elastic inner layer, because moving the fasteners 62 and 64 laterally inward would leave the portion of the outercover 30 that previously included the fasteners 62 and 64 flopping loosely from the diaper. However, modifying Surprise does not require moving the fasteners laterally inward in the manner suggested by Applicant. The elastic inner layer of Surprise could be extended laterally further outward, as shown by Freeland; in Freeland the elastic inner layer extends over the entirety of the back waist region, so that the fasteners are located laterally inward of the longitudinal side edge of the elastic inner layer (col. 2, line 65 to col. 3, line 2, and col. 3,

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lines 43-63). Surprise also teaches the entirety of the back waist region being elastic (outer layer is elastic, col. 4, lines 55-65). It would therefore be obvious to modify Surprise to include the elastic inner layer extending over the entirety of the back waist region, so that the fasteners are located laterally inward of the longitudinal side edge of the elastic inner layer. A similar arrangement in which the fasteners are located laterally inward of the longitudinal side edge of an elastic inner layer is shown in U.S. Patent No. 6,132,410 to Van Gompel et al., in U.S. Patent No. 5,593,401 to Sosalla et al. and in U.S. Patent No. 6,969,378 to Vukos et al. Other fastener arrangements having at least part of the fasteners located laterally inward of a longitudinal side edge are taught by U.S. Patent Nos. 3,921,638 to Schaar, 4,522,874 to Pommez, and 6,641,568 to Ashton et al., and U.S. Patent Application Publication Nos. 2002/0058922 to Skog and 2002/0099352 to Heden et al. In addition, as indicated in the prior Office Action mailed July 18, 2006, Applicant's specification does not disclose that having the fasteners of the back waist region located laterally inward of each longitudinal side edge of the elastic inner layer serves any stated purpose or solves any particular problem.

3. For Claims 17 and 45, Surprise teaches the topsheet layer and barrier layer having lateral extensions that are fully capable of C-folding and Z-folding, as indicated for Claim 1 in the prior Office Action mailed July 18, 2006 and above in paragraph 1.

Claim Rejections - 35 USC § 102

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. The rejections of Claims 1-12, 16-28, 31, and 45 under 35 U.S.C. 102(b) as being anticipated by Surprise (US 6,174,303) are maintained for the reasons of record, as well as the reasons described above in paragraphs 1 and 3.

Claim Rejections - 35 USC § 103

6. The rejection of Claims 14, 15, 29, and 30 under 35 U.S.C. 103(a) as being unpatentable over Surprise is maintained for the reasons of record, as well as the reasons described above in paragraph 1.

7. The rejection of Claims 13 and 32-44 under 35 U.S.C. 103(a) as being unpatentable over Surprise in view of Freeland (US 5,269,775) is maintained for the reasons of record, as well as the reasons described above in paragraphs 1-3.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paula L. Craig whose telephone number is (571) 272-5964. The examiner can normally be reached on M-F 8:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Paula L. Craig
Examiner
Art Unit 3761

PLC

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER

